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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,402	07/16/2003	William J. Semper	SAMS01-00261	2926
7590		02/19/2008		
Docket Clerk P.O. Box 800889 Dallas, TX 75380			EXAMINER VU, MICHAEL T	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 02/19/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/620,402

Applicant(s)

SEMPER ET AL.

Examiner

Michael Vu

Art Unit

2617

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER

## **ADVISORY ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 1/14/2008 have been fully considered but they are not persuasive.
2. On page 8 lines 4-5, and on page 9, lines 1-18, of Applicant's Remarks/Arguments, Applicant argues that "neither Rinne nor Shanbhag teach or suggest a quality of service profile corresponding to the mobile station".
3. In response, the examiner has been carefully reviewed the Applicant's Remarks or Arguments that Shanbhag indeed teach the communication network for transmitting data packets to a wireless client 105 from a content server 110. The wireless client 105 is a mobile terminal generally associated with a user or subscriber to the communication network 100, and can comprise, but is not limited to, a mobile station, a personal digital assistant, or a lap top or palm top computer capable of engaging in wireless data communications, and further teach the content server 110 is a server computer which can include, for example, a web server. The content server 110 is generally connected to a wired network 115. The wired network 115 can comprise, for example, a local area network, a wide area network, or the Internet (See Figure #1, paragraphs [0019-0020]).

Moreover, Shanbhag clearly teach the wired network 115 is interfaced with a network 120 associated with the wireless client 105. The wireless network 120 includes a network of nodes which routes data packets to a geographic location within radio communication of the wireless client 105 and transmits the data packets over the wireless air interface to the wireless client 105. The wireless network 120 also includes a wireless content switch 125. The wireless content switch 125 is positioned in a manner to receive the data packets which are transmitted to and from the wireless client 105 (See paragraph [0022])

Additional, Shanbhag teaches the assignment of radio priority is based on a subscriber profile parameter which is associated with the subscriber at the wireless client. The subscriber profile parameters are known as the Quality of Service parameter such as bandwidth, error rates, buffering limits, etc. Accordingly, the wireless network provider can offer different levels and prices for subscription, based on the Quality of Service parameter which determines the priority of transmission for data packets. However, the perceived quality of service from the user's point of view varies based on the user's application. For example, where a user's application is streaming video application, a high data throughput rate will be required for a satisfactory perceived quality of service. On the other hand, where the user's application is email, a considerably lower throughput rate will result in a satisfactory level of service. The foregoing can be true, even where the subscribers have paid for similar level of services. Therefore, subscriber satisfaction can be maintained by provisioning the lowest level of priority to data packets associated with the streaming video, and a higher

level of priority to the packets associated with the email application, and Accordingly, it would be advantageous if the priority of transmission for the data packets were based on the application type, as well as the subscriber's purchased level of service [0009-0010].

Furthermore, Shanbhag teaches a wireless content switch #125, in which is positioned in a manner to receive the data packets which are transmitted to and from the wireless client 105, and transmission of the data packets which are transmitted between the wireless client 105 and the content source 110 (See Figures 1-4, [0019-0036]). And when a data packet is received at upstream port 450a for a wireless client 105, the identity of the recipient wireless client 105 and the type of service parameter are determined. The type of service parameter can be determined by examination of the TCP layer of the data packet. **The identity of the wireless client 105 can be determined by examination of the destination IP address associated with the data packet and selecting the record 465 with a matching client IP address identifier 465b.** The client quality of service 465c is then retrieved from the record 465. The quality of service 465c and the type of service parameter are then used to look up the corresponding radio priority from the radio priority table 490. The radio priority is then used to replace the radio priority in the data -packet. The wireless content switch 125 then transmits the data packet to the base station system 315 (See paragraph [0036]).

4. From the above, the examiner believes that the rejections of the claims are proper.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Vu whose telephone number (571) 272-8131. The examiner can normally be reached on 8:30 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

A handwritten signature in black ink, appearing to read "Michael Vu", with a stylized flourish at the end.

Michael Vu

Examiner